

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALEX J. COMO, Sr. For The Como
Family,

Plaintiff,

vs.

THE CITY OF YAKIMA,

Defendants.

No. CV-05-3055-AAM

**ORDER OF DISMISSAL,
*INTER ALIA***

In the captioned matter, the pro se plaintiff has filed a complaint which, for all intents and purposes, is identical to a First Amended Complaint which the plaintiff filed in CV-05-3038-AAM and which the undersigned dismissed with prejudice as being legally frivolous. (See Ct. Rec. 7 in 05-3038). This dismissal occurred after the court had given the plaintiff an opportunity to amend his complaint to cure certain deficiencies. (Ct. Rec. 5 in 05-3038). Rather than appealing the dismissal to the Ninth Circuit Court of Appeals, plaintiff apparently decided he would simply re-file the same complaint in this court.¹ Of course, this is improper, but since the complaint has already been filed in the captioned matter, the undersigned is compelled to also

¹ The captioned matter was originally assigned to Chief Judge Whaley who transferred it to the undersigned in recognition of the undersigned's familiarity with the plaintiff.

1 dismiss it with prejudice and direct entry of a judgment for the defendant. Plaintiff may attempt
2 to appeal this judgment and in doing so it may have the effect of allowing appellate review of the
3 judgment previously entered in 05-3038.

4 The complaint in the captioned matter is **DISMISSED with prejudice**. Plaintiff shall
5 not be allowed to file any further documents in the captioned matter, with the exception of a
6 Notice of Appeal to the Ninth Circuit Court of Appeals. If plaintiff chooses to appeal, this order
7 serves as this court's notice that the appeal is not taken in good faith and will not be certified for
8 appeal by this court. 28 U.S.C. §1915(3) and Fed. R. App. P. 24(a).

9 Any future complaints submitted by plaintiff to the District Executive shall first be
10 "Received" by the District Executive and then forwarded to the undersigned for review to
11 determine whether the allegations contained therein are frivolous and/or abusive. If the
12 allegations are frivolous and/or abusive, the complaints will be returned to him. If not frivolous,
13 the plaintiff will be allowed to file said complaints, subject to payment of the filing fee, unless
14 plaintiff is allowed to proceed *in forma pauperis*.²

15 Any future complaints submitted by plaintiff shall include in their caption: "Subject to a
16 Pre-Filing Order." Any future complaints shall be accompanied by a copy of this Order and
17 contain a statement from plaintiff that he has not previously brought an action against the same
18 defendants in the Eastern District of Washington containing the same operative allegations.

19 Failure to adhere to these provisions will subject plaintiff to sanctions, including civil
20 and/or criminal contempt.

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26 ² If the plaintiff submits a complaint that warrants filing following this court's review, a
27 petition to proceed IFP will be given due consideration.

1 **IT IS SO ORDERED.** The District Executive shall enter judgment accordingly,
2 forward a copy of the judgment and this order to plaintiff, and close this file.

3 **DATED** this 11th of August, 2005.

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5 s/ Alan A. McDonald
6 ALAN A. McDONALD
 Senior United States District Judge